

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**LUIS ROCHA,**

**Plaintiff,**

**vs.**

**DR. FEINERMAN,**

**Defendant.**

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**CIVIL NO. 09-cv-417-GPM**

**MEMORANDUM AND ORDER**

**MURPHY, District Judge:**

This action is before the Court *sua sponte*. On December 10, 2008, Luis Rocha filed a civil action against several defendants including Defendant Dr. Feinerman. *See Rocha v. Scott*, Case No. 3:08-cv-866-GPM (S.D. Ill.). The Court construed Count 2 of that complaint as asserting a claim that Dr. Feinerman had deprived Rocha of adequate pain medication for his arm in violation of Rocha's Eighth Amendment rights. *Rocha v. Scott*, Case No. 08-cv-866 (S.D. Ill. Order filed May 7, 2009). The Court also found that Count 2 could not be dismissed pursuant to 28 U.S.C. § 1915A, but Rocha was advised that the Court intended to sever Count 2 into a separate case pursuant to *George v. Smith*, 507 F.3d 605, 607 (7<sup>th</sup> Cir. 2007), unless Rocha informed the Court that he wished to voluntarily dismiss Count 2. Rocha did not advise the Court that he wished to dismiss Count 2 and, therefore, a new case was opened for Count 2. *See Rocha v. Feinerman*, Case No. 3:09-cv-474 (S.D. Ill.).

In the meantime, though, it appears that Rocha commenced the instant action against Defendant Feinerman concerning his arm. This action is duplicative of Count 2 in Case No. 08-866,

which the Court later severed into Case No. 09-474. Accordingly, the instant action should be dismissed as duplicative of Rocha's action in Case No. 09-474.

**IT IS HEREBY ORDERED** that the Clerk of Court is **DIRECTED** to file the complaint in this action (Doc. 1) and the supplement to the complaint filed in this action (Doc. 5) as an amended complaint and a supplement to the complaint, respectively, in Case No. 09-474.

Additionally, the Clerk of Court is **DIRECTED** to file Rocha's motion for appointment of counsel in this action (Doc. 3) as a motion for appointment of counsel in Case No. 09-474.

Because Rocha will be granted leave to proceed *in forma pauperis* in Case No. 09-474, the motion to proceed *in forma pauperis* in this case (Doc. 2) is **DENIED** as moot.

Rocha is **ADVISED** that all future documents and pleadings concerning his claim against Dr. Feinerman should be filed in Case No. 09-474, not the instant case. The Clerk of Court is **DIRECTED** to **CLOSE THIS CASE**.

**IT IS SO ORDERED.**

**DATED:** 6/30/09

s/ G. Patrick Murphy  
G. Patrick Murphy  
United States District Judge